

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO

as representative of

THE COMMONWEALTH OF PUERTO RICO,

Debtor.¹

PROMESA
Title III

Case No. 17-BK-03283 (LTS)

RESPONSE TO TWO HUNDRED THIRTY-FOURTH OMNIBUS OBJECTION (NON-SUBSTANTIVE) OF THE COMMONWEALTH OF PUERTO TO DEFICIENT CLAIMS
[Dkt. #13918]

American Modern Home Insurance Company (“*American Modern*”), by and through its attorneys Rexach & Picó, CSP, files this response to the *Two Hundred Thirty-Fourth Omnibus Objection (Non-Substantive of the Commonwealth of Puerto Rico To Deficient Claims)* [Dkt. # 13918] (the “*Response*”). In support of its Response, American Modern respectfully states as follows:

1. On March 19, 2018, American Modern filed a proof of claim for payment in the referenced Title III case of the *Puerto Rico Oversight, Management, and Economic Stability Act*

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); (vi) Puerto Rico Public Buildings Authority (“PBA”, and together with the Commonwealth, COFINA, HTA, ERS, and PREPA, the “Debtors”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

(“**PROMESA**”) as creditor in connection with a bond it currently holds that was issued by the Commonwealth (the “**Proof of Claim**”) – *see copy set forth as Exhibit A.*

2. On July 31, 2020, the Commonwealth, by and through the Financial Oversight and Management Board for Puerto Rico (the “**Oversight Board**”), as representative of the Commonwealth pursuant to Section 315(b) of PROMESA, filed the *Two Hundred Thirty-Fourth Omnibus Objection (Non-Substantive) of the Commonwealth of Puerto Rico to Deficient Claims* (the “**Omnibus Objection**”) with the United States District Court for the District of Puerto Rico (the “**Court**”).

3. The Omnibus Objection seeks to disallow the Proof of Claim on the basis that it failed to comply with applicable rules for filing a claim against the Commonwealth, alleging (i) that the amount of the claim in Box 8 was left blank, and (ii) that Box 9, which requests the basis of the claim, was not provided, resulting in the Commonwealth being unable to determine the validity of American Modern’s claim.

4. American Modern received a request for additional information in relation to the Proof of Claim, dated January 23, 2019, which included a form to be completed with specific information of the bond held by American Modern, and returned to the address or email indicated therein, along with any documentation in support of its claim, “such as brokerage account statements” (the “**Letter**”) – *see copy set forth as Exhibit B.*

5. According to the Letter, the information provided in response to the Letter will be appended to the claim and appear on the official claims register – *see Exhibit B at page 2.*

6. On February 21, 2019, American Modern timely returned the completed form, attaching copies of a purchase report as of February 1, 2019 and a holdings statement as of February 4, 2019 issued by American Modern’s broker State Street, to the email indicated in the

Letter: PRClaimsInfo@primeclerk.com – *see copy of the email set forth as **Exhibit C**, and copies of each attachment included therein: copy of the completed form set forth as **Exhibit D**, copy of the purchase report set forth as **Exhibit E**, and copy of the holdings statement set forth as **Exhibit F**.*

7. On the same date, February 21, 2019, American Modern received an email from PRClaimsInfo@primeclerk.com confirming receipt of the aforementioned form as well as the supporting documentation – *see copy set forth as **Exhibit G**.*

8. Contrary to the Commonwealth’s first allegation, the amount claimed by American Modern, \$1,039,275.20,² was clearly indicated in item 8 of the Proof of Claim – see Exhibit A at page 3 – and reiterated in the “Amount Claimed” box of the emailed form – see Exhibit C-1.

9. Furthermore, and contrary to the Commonwealth’s second argument of the Omnibus Objection, American Modern provided ample evidence for the Commonwealth to be in a position to determine the valid nature of its claim. To wit, American Modern supplemented its Proof of Claim with the requested information, including the bond’s CUSIP number – see Exhibit C-1, as well as the brokerage account statements that identify it as the owner of the bond issued by the Commonwealth – see Exhibits C-2 and C-3, putting the Commonwealth in a position to ascertain the validity of the claim.

10. The supplemented Proof of Claim, which correctly identifies the obligations for which the Commonwealth is liable to American Modern, was made in accordance with Federal Rule of Bankruptcy Procedure 3001. Accordingly, the Commonwealth has no basis under Federal Rule of Bankruptcy Procedure 3007(d) to file Omnibus Objection against American Modern.

² Amount based on the carrying value of the bond when claim was originally submitted on March 19, 2018, exclusive of interests.

11. For the reasons stated above, American Modern respectfully requests this Court that (i) the Omnibus Objection against American Modern be denied, (ii) the Proof of Claim, including the supplemented information provided in response to the Letter, be considered to have been made in accordance and compliance with the applicable rules for filing a claim against the Commonwealth, and (iii) the Commonwealth be held liable to American Modern for the obligations identified in the Proof of Claim.

Dated: September 1, 2020

Respectfully submitted,

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*Attorneys for American Modern Home Insurance
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will notify case participants.

Respectfully submitted.

Dated: September 1, 2020.

Respectfully submitted,

/s/ Javier L. Inclán

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